

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Carlton R. Logan,)	CASE NO. 1:14CV1708
)	
)	
Petitioner,)	JUDGE JOHN R. ADAMS
)	
vs.)	
)	
Bennie Kelley,)	
)	
)	
)	
Respondent.)	MEMORANDUM OF OPINION AND ORDER
)	
)	

This action is before the Court upon objections filed by Petitioner Carlton R. Logan, asserting error in the Report and Recommendation (“the R&R”) of the Magistrate Judge. The Court ADOPTS the R&R (Doc. 11) in its entirety. The Petition is DENIED AND DISMISSED.

Where objections are made to a magistrate judge’s R&R this Court must:

must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

Fed. R. Civ. P. 72(b)(3). The Court has reviewed *de novo* the R&R as it relates to Logan’s objections. The objections lack merit.

Logan raises three objections, first asserting that the R&R erred in finding that his petition was untimely. Specifically, Logan contends that the R&R disposed of his arguments for equitable tolling without fully analyzing the facts surrounding his argument. The Court finds no merit in this contention. The R&R properly lays out the law surrounding equitable tolling, and Logan has not identified any error in the law relied upon by the R&R. Furthermore, the R&R

properly notes that Logan's lengthy history of filings in state and federal court have one common theme --- they are consistently untimely. Those facts alone support the R&R's conclusion that Logan's case does not warrant equitable tolling. Logan's first objection, therefore, is overruled.

Logan next contends that the R&R misapprehended his second ground for relief. Specifically, Logan contends that his real challenge revolved around whether the state court properly gained jurisdiction over his body through a proper writ. Logan asserts that the R&R misread his argument and instead addressed the issue of dual sovereignty. Logan, however, ignores that the R&R properly noted that he raised the issue regarding the writ for the first time in his traverse (see R&R at 13, n.5). The R&R further properly found that Logan could not raise such an issue for the first time in his traverse. As such, the R&R did not err when it failed to address Logan's arguments surrounding whether a proper writ was issued to place him within the jurisdiction of the state court.

Finally, Logan argues that the R&R erred when it found that his challenge to jail time credit was not cognizable in habeas. A state court's alleged misinterpretation of state sentencing guidelines and crediting statutes is a matter of state concern only. *Howard v. White*, 76 Fed. App'x 52, 53 (6th Cir. 2003). Claims challenging whether and/or how much jail credit is applied to state sentences under state law are a matter of state law and not cognizable on federal habeas review. *See Kipen v. Renico*, 65 Fed. App'x 958, 959 (6th Cir. 2003) ("[T]he actual computation of [a petitioner's] prison term involves a matter of state law that is not cognizable under 28 U.S.C. § 2254.") "[F]ederal habeas corpus relief does not lie for errors of state law." *Estelle v. McGuire*, 502 U.S. 62, 67 (1991) (quoting *Lewis v. Jeffers*, 497 U.S. 764, 780, (1990)). Despite Logan's objections to the contrary, his challenges to the state court's application of Ohio Revised

Code § 2967.191 do not raise a constitutional claim and therefore are not cognizable in his untimely habeas petition.

Logan's objections are overruled. The R&R is adopted, and the petition is hereby DENIED AND DISMISSED. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith. There is no basis on which to issue a certificate of appealability. Fed. R. App. P. 22(b); 28 U.S.C. § 2253(c).

IT IS SO ORDERED.

July 27, 2015

/s/ John R. Adams
JUDGE JOHN R. ADAMS
UNITED STATES DISTRICT COURT